



# GMS Flash Alert

Immigration Edition

2020-491 | December 10, 2020



## France - Brexit Is Nigh and France Clarifies Rights of British Nationals

A new French Decree defines the applicable rules for British nationals in the period pre- and post-31 December. It details the different immigration rules that apply depending on the personal and professional situation of such British nationals.<sup>1</sup>

This GMS *Flash Alert* provides an update on the Decree and the immigration status of British nationals residing and/or working in France prior to 31 December 2020, and wishing to continue to reside and/or to work in France after this date.

### WHY THIS MATTERS

While employers and U.K. national employees and individuals have been subject to the same European Union (EU) rules governing the nationals of other EU member states, a different set of rules will apply once the transition period ends on 31 December 2020. A new immigration status will be applicable to such British nationals who were already residing and / or working in France. From January 2021 onwards, all the same provisions that apply to third-country nationals will apply to British nationals entering France for the first time, and the EU directive on free movement will no longer apply. This must be considered when planning and scheduling the posting and relocation of British employees to the EU.

The rules under the new Decree are welcome as they will help ensure the rights of British nationals and their family members to stay and work in France.

### Context

On 31 January 2020, the U.K. ceased to be a member state of the European Union. The Withdrawal Agreement of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community entered into force on 1 February 2020.<sup>2</sup> This agreement establishes a transitional period which is to last until 31 December 2020. During this transitional period, EU legislation on free movement will continue to apply.

© 2020 KPMG S.A., société anonyme d'expertise comptable et de commissariat aux comptes, membre français de l'organisation mondiale KPMG constituée de cabinets indépendants affiliés à KPMG International Limited, une société de droit anglais (« private company limited by guarantee »). Tous droits réservés. Printed in the U.S.A. NDPPS 530159.

2020-491 | December 10, 2020

Therefore, British nationals are able to enjoy their right of free movement in France until the end of 2020.

## New Decree

Decree n ° 2020-1417 of 19 November 2020 has been published. It transposes into French law the provisions relating to the conditions of entry, stay, work, and access to social and other rights of British nationals.

## Provisions Relating to Residence Permits for British Nationals Residing in France and Their Family Members

British nationals residing in France prior to 31 December 2020, and their family members may continue to reside in France and exercise a professional activity there without holding a residence permit until 30 September 2021, (however, they will have to be able to prove their current situation in France)<sup>3</sup>.

The French residence permit application will have to be filed with the French authorities before 1 July 2021. The application for a residence permit must be filed online on a dedicated website of the Ministry of the Interior.<sup>4</sup>

From 1 October 2021, British nationals residing in France prior to 31 December 2020, and their families, will have to hold a valid residence permit.

## British Nationals Residing in France for Less Than Five Years and Their Family Members

British nationals and their family members residing in France less than five years prior to 31 December 2020, who are willing to continue to reside in France after this date are entitled to a residence permit valid for five years bearing the mention "*article 50 TUE/article 18(1) accord de retrait du Royaume-Uni de l'UE*," which will be issued to them according to their personal and professional situation.

This residence permit may be automatically renewed if the individual continues to meet the conditions required for the issuance of the first residence permit.

## British Citizens Residing in France for More Than Five Years and Their Family Members

British nationals residing in France more than five years on 31 December 2020 and residing in France regularly after that date, and members of their families in certain specific cases, may benefit from a 10-year residence permit bearing the mention "*Séjour permanent - article 50 TUE/article 18(1) accord de retrait du Royaume-Uni de l'UE*."

This residence permit may be renewed.

## Frontier Workers

British nationals exercising an economic activity in France but residing outside of France prior to 31 December 2020, who are willing to continue their activity in France after this date must be provided with a travel document bearing the mention "*Article 50 TUE – Travailleur frontalier/ Accord de retrait du Royaume Uni de l'UE – Non-résident*."

This travel document will be valid for five years. It will be renewable if the applicant still meets the conditions.

Instructions for submitting to the authorities the request for the travel document for frontier workers are expected to be published shortly.

## FOOTNOTES:

1 For the Decree n ° 2020-1417 of 19 November 2020 (*Décret n° 2020-1417 du 19 novembre 2020 concernant l'entrée, le séjour, l'activité professionnelle et les droits sociaux des ressortissants étrangers bénéficiaires de l'accord sur le retrait du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord de l'Union européenne et de la Communauté européenne de l'énergie atomique*) see: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042538704> .

2 For related coverage of Brexit and the Withdrawal Agreement and immigration matters for U.K. nationals, see our other Brexit reports in GMS *Flash Alert* at: <https://home.kpmg/xx/en/home/insights/2015/09/flash-alert-brexit.html>.

See “Brexit Update” (in French) from October 2020, a publication of the KPMG International member firm, at: <https://assets.kpmg/content/dam/kpmg/fr/pdf/2020/10/fr-08102020-ka-brexit-ressources-humaines-mobilite-internationale.pdf> .

For more on the EU-U.K. Withdrawal Agreement, see: [https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/eu-uk-withdrawal-agreement\\_en](https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/eu-uk-withdrawal-agreement_en).

3 British nationals must apply before July 2021, but it will be mandatory for them to have a residence permit on 1 October 2021. So, until 30 September it does not matter if they do not have a residence permit, but at least they must be able to provide some proof/document indicating that they arrived before 31 December 2020.

4 For the dedicated website of the Ministry of the Interior, see <https://brexit.gouv.fr/sites/brexit/accueil/le-brexit-cest-quoi.html> .

\* \* \* \*

## Contact us

For additional information or assistance, please contact your local GMS or People Services professional\* or one of the following professionals with KPMG Avocats in France:



### Gérôme Gbaya

#### Partner

Tel. +33 (0) 1 55 68 48 28

[geromegbaya@kpmgavocats.fr](mailto:geromegbaya@kpmgavocats.fr)



### Sophie Fischel

#### Manager

Tel. +33 (0) 1 55 68 48 36

[sfischel@kpmgavocats.fr](mailto:sfischel@kpmgavocats.fr)

\* Please note the KPMG International member firm in the United States does not provide immigration or labour law services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.

**The information contained in this newsletter was submitted by the KPMG International member firm in France.**

© 2020 KPMG S.A., société anonyme d'expertise comptable et de commissariat aux comptes, membre français de l'organisation mondiale KPMG constituée de cabinets indépendants affiliés à KPMG International Limited, une société de droit anglais (« private company limited by guarantee »). Tous droits réservés.

[www.kpmg.com](http://www.kpmg.com)

[kpmg.com/socialmedia](http://kpmg.com/socialmedia)



© 2020 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. Printed in the U.S.A. NDPPS 530159

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

KPMG LLP is the U.S. firm of the KPMG global organization of independent professional services firms providing Audit, Tax and Advisory services. The KPMG global organization operates in 147 countries and territories and has more than 219,000 people working in member firms around the world.

Each KPMG firm is a legally distinct and separate entity and describes itself as such. KPMG International Limited is a private English company limited by guarantee. KPMG International Limited and its related entities do not provide services to clients.

Flash Alert is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click [here](#). To learn more about our GMS practice, please visit us on the Internet: click [here](#) or go to <http://www.kpmg.com>.